

**MINUTES**  
**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION**  
**REVIEW COMMITTEE**  
**EIGHTH MEETING: NOVEMBER 17-19, 1994**  
**ALBANY, NY**

The eighth meeting of the Native American Graves Protection and Repatriation Review Committee was called to order at 8:30am, Thursday, November 17, 1994 by Ms. Rachel Craig. The committee meeting was held at the New York State Museum, Clark Auditorium in Albany, NY. The following committee members, staff, and others were in attendance:

Members of the committee:

- Ms. Rachel Craig
- Mr. Jonathan Haas
- Mr. Dan Monroe
- Ms. Tessie Naranjo, chair
- Mr. William Tallbull
- Mr. Philip Walker

National Park Service staff:

- Mr. Francis McManamon, Departmental Consulting Archeologist
- Mr. Tim McKeown, NAGPRA Program Leader
- Ms. Mandy Murphy, Consultant
- Ms. Jean Kelley, Consultant

The following others were in attendance during some or all of the proceedings:

- Ms. Jodi Ackerman, Albany, NY
- Ms. Lisa Anderson, New York State Museum, Albany, NY
- Ms. Brenda Baker, New York State Museum, Albany, NY
- Ms. Louise Basa, New York Archeological Council, Schenectady, NY
- Mr. Robert Bonnichsen, Corvallis, Oregon
- Mr. James Bradley, Robert S. Peabody Museum, Andover, MA
- Ms. Jaymie Brauer, American Museum of Natural History, New York, NY
- Ms. Tamara Bray, National Museum of Natural History, Smithsonian, Washington, D.C.
- Mr. Bob Brown, Oneida Nation of Wisconsin
- Ms. Silvie C. Brown, New York State Museum, Albany, NY
- Mr. M.A. Bruce, Wynantskill, NY
- Ms. Ellen Cesarski, State University of New York-Albany, NY
- Mr. George Claxton, New York State Museum, Albany, NY
- Ms. Rebecca Cole-Will, Abbe Museum, Bar Harbor, ME
- Ms. J. Collamer, Collamer & Associates, East Nassau, NY
- Mr. Steve Comer, Stockbridge-Munsee, Sand Lake, NY
- Ms. Honee Conklin, Albany, NY
- Ms. Jacky Corey-Smith, Rensselaer, NY

Mr. Ed Curtine, Skidmore College, Saratoga Springs, NY  
 Mr. Charles D'Arcangelis, State University of New York-New Paltz, NY  
 Ms. Nancy Davis, New York State Museum, Albany, NY  
 Mr. Dan DeMicco, Albany, NY  
 Mr. M. Ellsworth, Lake George, NY  
 Ms. Pam Fahey, Oneida Nation of New York  
 Mr. W. N. Finton, Shirgerlands, NY  
 Ms. Patricia Friedrich, Oneida Nation of Wisconsin  
 Mr. Dennis Funmaker, Ho-Chunk Nation, WI  
 Ms. Rebecca Goldstein, Albany, NY  
 Ms. Martha Graham, American Museum of Natural History, New York, NY  
 Mr. George Green, Mashpee Wampanoag Tribe, Mashpee, MA  
 Ms. Laura Green, New York State Museum, Albany, NY  
 Ms. Tamara Grybko, Boston Children's Museum, Boston, MA  
 Mr. Gregory Gust, Washington, D.C.  
 Mr. L. Hauptman, State University of New York-New Paltz, NY  
 Ms. Barbara Issacs, Peabody Museum, Harvard University, Cambridge, MA  
 Mr. Pete Jemison, Seneca Nation, NY  
 Mr. Kervin Jonathan, Tonawanda Nation, NY  
 Ms. Rebecca Joseph, National Park Service, Boston, MA  
 Mr. George Kanertio, Mohawk Nation, NY  
 Ms. Andrea Lain, New York State Museum, Albany, NY  
 Mr. Bronco LeBeau, Cheyenne River Sioux Tribe, SD  
 Ms. Sharon LeRoy, Cayuga Nation, NY  
 Mr. S. Light, Brooklyn, NY  
 Ms. Anita Little, Mashpee Wampanoag Tribe, Mashpee, MA  
 Ms. Maria Liston, Adirondack Community College, Queensbury, NY  
 Mr. Michael J. Lukensgard, Oneida Nation of Wisconsin  
 Mr. Bud Mahoney, New York Assembly, Albany, NY  
 Mr. Emerson Martin, Selkirk, NY  
 Mr. Gary McCann, Muhheconneck Intertribal Committee, Quincy, MA  
 Ms. Joan Merriman, State University of New York-Binghamton, NY  
 Ms. Loretta Metoxen, Oneida Nation of Wisconsin  
 Mr. Phillip Minthorn, Jr., National Museum of Natural History-Smithsonian, Washington, D.C.  
 Ms. Kerry Nelson, Skidmore College, Saratoga Springs, New York  
 Mr. Nick Nicastro, Ithaca, New York  
 Mr. Doug Owsley, National Museum of Natural History-Smithsonian, Washington, D.C.  
 Mr. Brian Patterson, Oneida Nation of New York  
 Mr. Stuart Patterson, Tuscarora Nation, NY  
 Ms. Kelly Paxton, State University of New York-New Paltz, NY  
 Ms. Lydia Peirce-Doughty, New York State Museum, Troy, NY  
 Mr. Joseph R. Phillips, Maine State Museum, Augusta, ME  
 Mr. Irving Powless, Onondaga Nation, NY  
 Mr. Mark Pritchard, New York State Museum, Albany, NY  
 Ms. Carol Raemsch, State University of New York-Albany, NY

Ms. Sharon Reid, New York State Museum, Albany, NY  
 Ms. C. Rosenmeier, Robert S. Peabody Museum, Andover, MA  
 Ms. Barbara Ross, New York State Museum, Albany, NY  
 Mr. Allan Ryan, Harvard University, Cambridge, MA  
 Ms. Alyce Sadongei, National Museum of the American Indian-Smithsonian, Washington, D.C.  
 Ms. Geraldine Santoro, Statue of Liberty National Monument, National Park Service, New York, NY  
 Ms. Lorraine Saunders, Rochester Museum & Science Center, Rochester, NY  
 Ms. Nicole Scafidi, State University New York-New Paltz, NY  
 Mr. Alan L. Schneider, Portland, OR  
 Ms. Maggie Sebastian, New York State Museum, Albany, NY  
 Mr. S. Seney, New York State Museum, Albany, NY  
 Ms. Anne Stanaway, Boulder, CO  
 Mr. John Stubbs, Peabody Museum, Harvard University, Cambridge, MA  
 Ms. Tamara Vasney, New York State Museum, Albany, NY  
 Mr. Carey Vicenti, Bureau of Indian Affairs, Washington, D.C.  
 Ms. Anne-Marie Victor-Howe, Peabody Museum, Harvard University, Cambridge, MA  
 Ms. Denise Vigue, Manager, Onondaga Nation of Wisconsin  
 Mr. Emerson Webster, Tonawanda Nation, NY  
 Mr. Daniel H. Weiner, Hughes, Hubbard & Need, New York, NY  
 Ms. Beth Wellman, New York State Museum, Albany, NY  
 Mr. Frank Wozniak, US Forest Service, Albuquerque, NM  
 Mr. Ben Young, State University of New York-New Paltz, NY  
 Mr. Stepher Young, State University of New York-New Paltz, NY

### **Host's Welcome**

The committee was welcomed to the New York State Museum by Ms. Carole Huxley, Deputy Commissioner for Education and Mr. Louis Levine, Assistant Director of the New York State Museum.

### **Review of Agenda**

Mr. McManamon, Departmental Consulting Archeologist, went over the meeting agenda. Following a review of the status of current efforts to implement the Act, the committee would review several draft documents including the committee's 1993-1994 Report to Congress, a Sample Inventory for Human Remains and Associated Funerary Objects, and a listing of Native American groups currently petitioning for Federal recognition. The committee was also scheduled to hear presentations the disposition of culturally unidentified human remains and a request from the Peabody Museum at Phillips Academy in Andover, MA for the committee's recommendation regarding repatriation to a federally-unrecognized group. The United States Marine Corps, Hawaii has also asked for the committee's recommendations regarding a dispute between claimants for human remains from the Mokapu peninsula on Oahu.

### **Implementation Update**

Mr. McManamon reported that over 15,000 notices had recently been sent to remind all medical schools, museums, and departments of anthropology at colleges and universities of the summary and inventory requirements of the Act. Mr. McManamon said some of the responses from smaller institutions indicate "there is not a very good understanding of the law." The Archeological Assistance Division has recieved copies of summaries from 630 museums and Federal agencies. Mr. Haas said he noticed many museums and universities still missing from the summaries list. Mr. Haas said he appreciated seeing the notation on the list of institutions that have sent in statements of no collections. Mr. McManamon suggested the committee let him know of institutions who ought to be on the summaries list, and in the meantime he would continue publishing announcements and distributing information about NAGPRA. Mr. Haas asked Mr. McKeown if he could provide a percentage of institutions currently in compliance. Mr. McKeown responded that there is currently no way to tell which of the 15,000 museums and universities actually recieved Federal funds and have Native American collections. Mr. Walker said he was concerned that there were small museums who "are just going to not do anything...and we'll never know about it." Mr. McManamon said that although informing everyone about the law is a slow process, most institutions will eventually get the information they need.

Mr. Haas asked if the committee could be provided with copies of the Notices of Inventory Completion and Notices of Intent to Repatriate a Cultural Object published in the *Federal Register*. Mr. Haas said that as part of the committee's monitoring responsibilities, he would like to see the level of activity and what material was being returned. Mr. McManamon said those copies would be provided in the committee's meeting binders in the future. Mr. Haas questioned the level of repatriation activity based on the low number of notices. Mr. McKeown explained that notices could cover a large number of human remains and objects, and he also expected the number of notices to increase dramatically during the next year.

Mr. McManamon announced that Congress had funded the NAGPRA grants at 2.3 million dollars for FY 1995, the same amount appropriated in FY 1994. Grant guidelines had already been distributed to all Indian tribes, Native Hawaiian organizations, and museums that submitted summaries. Application deadlines were in February, 1995. He acknowledged the current level was not adequate to meet the needs of tribes and museums. Mr. McManamon called the committee's attention to the FY 1994 grant recipients. Mr. McKeown explained the process of the 1994 grant selection and the method the grant selection panel was chosen. Mr. Haas and Mr. Monroe asked if the selection panel could be chosen from people outside the federal government, like NSF, NEA, and NEH run their grant panels. Mr. McKeown said the Department Solicitor had told them their panel should be federal employees or they would have to go through another review committee set-up and selection process. Mr. Monroe asked if the grants selection panel could be set up under the authority of the review committee. Mr. Walker said the point was to make everyone feel the process is fair and "there aren't any inside favorites." Mr. McManamon said he would check on the feasibility of that option.

Mr. Walker asked if the grant funding could be in jeopardy with the new Congress. Mr. McManamon replied that there was talk of a recession of some FY 1995 funds, but he had not heard of anyone specifically targeting NAGPRA grant monies. Mr. Walker asked when the 1995 grants would be allocated. Mr. McManamon responded that the 1995 grants should be distributed by July 1, 1995. Mr. Walker asked if some funds could be set aside to assist smaller tribes and institutions to develop their grant proposals. Ms. Craig suggested that joint proposals would be the best method of getting

NAGPRA funding to smaller tribes and museums. In Alaska, different villages are getting together and drawing up cooperative proposals. She thought perhaps smaller communities in the lower 48 states could look at those examples. Mr. McManamon agreed and said the proposals which include joint efforts on the part of several different Indian tribes and museums were very cooperative. Ms. Craig said that in her area, the information about NAGPRA grants was just beginning to reach the more isolated communities, and that may increase the need for funding even further. Mr. Walker said he had the same concerns for small museums and institutions, and asked if there wasn't some method to further simplify the grant process. Mr. McManamon stated that the office has simplified the process to the extent possible. He also said that the proposal guidelines encouraged applicants to call the NAGPRA staff for assistance in preparing their grants.

Mr. McManamon said Mr. McKeown had been doing "a tremendous amount of work on training" through a formal course offered by cooperative agreement with the University of Reno, Nevada; and also participating in a series of workshops, including ones partially funded through FY 1994 NAGPRA grants. Ms. Naranjo thanked Mr. McKeown for conducting those workshops around the country. Mr. Monroe added that the DCA was doing "an outstanding job explaining issues and helping people understand the course to take without having to bring issues before the committee."

Mr. McManamon told the committee that he and Mr. McKeown had several meetings with representatives of the Assistant Secretary's office, the Solicitor's Department, and other Interior bureaus; and the final regulations have been sent for final approval. Mr. McManamon outlined the few specific changes to the regulations in their final form.

Mr. McManamon reported that a draft of proposed regulations regarding civil penalties would be introduced for publication in the *Federal Register* once the final regulations were signed. Ms. Naranjo asked Mr. McKeown for a review of the subjects within the civil penalties section. Mr. McKeown reviewed the current draft civil penalties section for the committee.

Mr. McKeown reminded the committee there were three other reserved sections of the regulations: disposition of unclaimed human remains and cultural items recovered from Federal or tribal lands; disposition of culturally unidentifiable human remains in museum and Federal agency collections; and future applicability of the statute. The committee agreed to discuss these sections at a later meeting.

### **1993-1994 Report to Congress**

Mr. McManamon reviewed the contents of the committee's draft Report to Congress for 1993-1994. Mr. McManamon said the draft contained a short text which documented the committee's activities during that time, followed by summaries of each of the committee's meetings, and findings issued by the committee on dispute hearings, and a section for the committee's recommendations to Congress. Mr. McManamon also noted the attachments of various documents issued by his office and the committee during 1993-1994: the memorandum of guidance for summaries, inventories, and notification; the proposed regulations; the list of institutions submitting summaries; the FY1994 grant guidelines; and a listing of Notices of Inventory Completion and Notices of Intent to Repatriate a Cultural Object published in the *Federal Register* during 1993-1994.

Mr. Walker was concerned that the report be very readable and asked how the committee could maximize the chances that the Congressional committees would "actually look at this and make use of it..." Mr. Haas agreed it was important to produce a document which would be very readable. Mr. McManamon agreed the document itself should be streamlined and to the point, but added that the appendices were important supporting information. Mr. McManamon suggested that perhaps the report and the appendices could be produced as two separate documents. Mr. McKeown said the initial text could be edited down and then have an executive summary. Mr. Haas agreed that would be an effective document.

Mr. Walker asked who was reading the 1992 report to Congress. Mr. McKeown said in addition to being included in each information packet sent out, the 1992 report was being requested by tribal representatives, museum representatives, Federal agencies, and staff members of several House and Senate committees. Mr. McManamon related that the 1992 report had been very useful during the 1993 Senate Indian Affairs Committee oversight hearings on implementation of the statute.

The committee members agreed that increased grants funding should be stressed in the report's recommendations. Mr. Haas recommended the committee include a vigorous recommendation for 10 million dollars per year. He thought this level would be appropriate for the next five years, and was in line with the importance of the issues of repatriation. Mr. Haas also recommended the members of the committee begin pushing their professional organizations and other advocacy groups to increase lobbying for the higher funding levels. Mr. McManamon reminded the committee that these recommendations would be for the FY1996 money.

Mr. Carey Vicenti, Bureau of Indian Affairs, suggested that the committee use its position to comment on how NAGPRA is effecting the maintenance of Indian cultures and religions. He recommended the committee let Congress know that it's not all bliss out here. Mr. Haas agreed that the current draft does not indicate the disagreement or emotion surrounding the law. Mr. Vicenti said the committee may want to consider including language indicating the challenges faced by both tribal and museum communities in implementing this law.

Mr. Sebastian "Bronco" LeBeau, NAGPRA Coordinator for the Cheyenne River Sioux Tribe, supported including the challenges faced by Indian tribes and museums in the 1993-94 Report to Congress. Everyone has to talk about the problems we are having with it. His community has been having problems in consultation with institutions who have already decided what in the collections the tribe may conduct consultation on. Mr. LeBeau asked the committee to speak its true feelings in the Report to Congress. "Give Congress a complete picture of what people are doing." He recommended that the report be as long as needed to present the current situation.

Mr. J.R. Phillips, Director of the Maine State Museum, supported including a request for \$50 million funding over the next five years in the 1993-94 Report to Congress. Mr. Phillips said the larger total was more likely to get some serious attention in Congress.

Mr. Dennis Funmaker asked the committee to be very vocal in its report to Congress about the need for more funding to accomplish the objectives of the statute.

Mr. George Abrams, New York University Museum Studies and the American Indian Association in New York City, said he hoped the Report to Congress would be persuasive enough for Congress to appropriate more funds for NAGPRA.

Mr. Monroe recommended the committee write the report to Congress and not use the draft. The Committee concurred. Mr. Monroe agreed to write the text of the report.

## **Sample Inventory**

Mr. McManamon presented the committee with the latest draft of the Sample Inventory for Human Remains and Associated Funerary Objects which included the changes recommended by the committee at the Rapid City meeting. Mr. McManamon noted that cultural affiliation has been changed to be a specific line in each example, and the results of consultations are also a separate line.

Mr. Walker asked what the statutory requirements were for the inventory, and specifically what the language regarding existing documentation meant for the inventory production. Mr. McManamon responded that institutions should be checking through not only accession and catalog information, but also reports, field notes, or other records in the institution. The regulations provide for limited further examination for the express purpose of determining cultural affiliation.

Mr. Walker asked for clarification regarding human remains from an earlier single group were now represented by two or more Federally recognized Indian tribes. Mr. McKeown agreed the document could be changed to reflect that situation, and noted that several Indian tribes have entered into agreements to jointly repatriate those remains. Mr. McKeown said the draft had been produced to be generic, and therefore flexible when applied to different institutions.

Mr. Tallbull reminded the committee that many tribes today are the result of earlier peoples coming together, such as within the Cheyenne. "The tribe consists of two groups of people that came together, two different languages. Each group has a covenant...there has been a problem of bringing home items that belong to a certain group but somebody else got it within a tribe. It has a very demoralizing effect on the people. I don't think the museums should just hand it to the first group of people that comes along. Even within tribes, important information may not be relayed to the appropriate people." Ms. Naranjo stressed the importance of both tribes and museums exerting conscientious efforts in consultations and notifying the appropriate people.

Mr. Walker asked how notification of culturally affiliated tribes occurred. Mr. McKeown explained that when an institution sends in a notice to be published in the *Federal Register*, the DCA staff it over to check that all culturally affiliated Indian tribes and Native Hawaiian organizations have been contacted. Mr. Walker said the approach he would like to see "is to try to do everything that we can with the resources that we have to make sure that appropriate groups are notified." Mr. McKeown responded that consultation was the responsibility of the institution or Federal agency. Consultation must be done before the notice is published in the *Federal Register*. Although the NAGPRA program office does screen notices and may suggest tribes for further consultation, the institution must ultimately be the contact.

Ms. Naranjo asked Mr. Frank Wozniak for comments on cultural affiliations with multiple tribes from his perspective in the Southwest. Mr. Frank Wozniak, NAGPRA Coordinator for the Southwestern Region, U.S. Forest Service, explained many of the Pueblos have claims for the same areas, and the situation is further complicated by the Navajo Nation's proposal of cultural affiliation with prehistoric Pueblo materials within the boundaries of the Navajo Nation. Mr. Wozniak thought the best method of dealing with these potentially competing claims would be for the Pueblos to work through the All-Indian Pueblo Council, made up of the governors of all New Mexico's pueblos. Mr. Wozniak stated the cultural affiliation questions were extremely difficult, and invited guidance and direction from the committee in this area.

Mr. Walker disagreed with the inclusion of remains affiliated with federally unrecognized tribes as Culturally Unidentifiable. Mr. Haas agreed, but thought the publication requirements of culturally unidentified inventories may result in tribes coming forward with claims.

Mr. Walker asked if the sample inventory could be reworked to eliminate redundant information. Ms. Naranjo said her concern for tribal communities was that the document show exactly the information with each individual as the draft indicated. She said this was the specific type of information needed by Indian tribes, and she supported the draft inventory's structure. Mr. Walker supported a listing of information for each accession before the listing of each catalogue item. Mr. Haas suggested that for each tribe, there would be a cover sheet stating the common accession information, and then list specifically human remains and associated funerary objects with relevant documentary and consultation information. Ms. Naranjo agreed this would get the relevant information to the tribes. Mr. McKeown said the current draft was constructed to provide as many generic examples as possible for all institutions to use. The committee recommended that the suggested changes be incorporated. Mr. McManamon stated the sample inventory would be revised to have cultural affiliation clearly stated on one line, and also include an example of a situation where two present-day tribes are affiliation with human remains from a single earlier group.

### **Native American Group Contacts**

Mr. McManamon summarized the draft memorandum as an issue which arose during review of draft final regulations. Mr. McManamon explained that there was interest within several Department of Interior bureaus in working with groups currently in the recognition process in the Bureau of Indian Affairs. Mr. McManamon said the draft memorandum would encourage museums and Federal agencies to consult with those groups, but restrict repatriation until those groups are recognized or until the issue is resolved by the Department of the Interior.

Ms. Naranjo said the draft was a beginning in allowing non-Federally recognized Native American groups into the process, but acknowledged that the law specifies that a tribe be Federally recognized to have standing for repatriation.

Mr. Haas asked if NAGPRA limits a museum's ability to repatriate collections to non-Indian groups or to groups outside the United States. Mr. McManamon explained that the NAGPRA statute only covers Native American human remains and cultural items, and the concern is ensuring they are repatriated to the correct community. A museum following an internal procedure for Native American human



remains which would not comply with NAGPRA would possibly be "at some legal, financial, moral, and ethical risk." He added that he thought it was possible to address these concerns within the framework of NAGPRA.

Ms. Craig suggested that institutions and museums work within their own policies to return "all human remains to their respective Indian groups. "Whether the U.S. Government has recognized them or not, they are here. They were born and they die." Ms. Craig asked that part of the Committee's recommendation state that the issue needs to be resolved "in whatever way that it works for those remains to get home to the people that they were taken from." Ms. Naranjo agreed, and added that she was frustrated because currently, although unrecognized tribes should be consulted, they are not included beyond the consultation process.

Mr. Haas noted that the draft memorandum states the BIA list determines which Indian tribes have standing under NAGPRA. That statement is contrary to the committee's decision to not use the BIA list. He stated that he did not want the NAGPRA process to be dependent on "that other bureaucracy" to determine which communities have standing. Mr. Walker asked if the separate tribes now incorporated into affiliated or confederated governments/reservations could somehow be enabled to act separately from the recognized government's authority. Mr. McManamon replied that the Secretary's solicitors have not given a final answer to that question. When they do, the committee will have stronger guidance on how to proceed.

Mr. Haas proposed, and the committee agreed to recommend the inclusion of the Mashpee Wampanoag on the DCA NAGPRA contact list. Mr. McManamon said he would work with the Solicitor to see if the list can be expanded.

Mr. Monroe suggested that the committee allow non-Federally recognized Native American groups to request a decision when making a claim on human remains culturally affiliated with that group. Once the committee has issued a decision, it could also issue a finding that the non-recognized Native American group is an affected party under NAGPRA. Mr. Monroe then suggested that the committee could create a list of "affected parties" for distribution with the NAGPRA contact list. Mr. Walker and Ms. Craig supported the idea. Mr. Vicenti explained that this method of dealing with non-Federally recognized Native American groups would have to be approved in the Solicitor's office. He suggested that the idea should be considered. Mr. Haas asked the committee to also consider another alternative because the committee is charged with recommending specific actions for culturally unidentified human remains, it could recommend repatriation to non-Federally recognized Native American groups based on the information submitted with those inventories, and then add those groups to an "affected parties" list. Mr. McManamon said he would look into the feasibility of both proposals and report back to the committee.

### **Request for a Recommendation Regarding Culturally Unidentifiable Human Remains**

Mr. James Bradley, Director of the Robert S. Peabody Museum of Archaeology at Phillips Academy, Andover, MA, requested the committee's recommendations regarding human remains held by the museum believed to be culturally affiliated with the Mashpee Wampanoag Tribe, a non-Federally recognized Native American group. Mr. Bradley spoke about the development of the Massachusetts

state repatriation process and the long involvement of the Mashpee Wampanoag community in repatriations within the state. He explained the reason the museum was asking for the committee's recommendation, "There is a clear claimant in this case, but because of the lack of Federal recognition we cannot proceed with the return of those remains without your permission." Mr. Bradley presented three lines of evidence demonstrating affiliation. The Titcut Site, from which the human remains were recovered, is a well-known site in Massachusetts. The site has considerable time depth with at least seven or eight millennia of human occupation. The burial was a ten to twelve-year old girl, with associated funerary objects that include both native and European made items dating from 1580-1610. Mr. Bradley said this burial compares very strongly with other known Wampanoag sites, such as Burr's Hill. "We feel that we can demonstrate a shared cultural relationship on the archeological evidence alone." The second line of evidence presented by Mr. Bradley used ethnohistoric accounts dating back to the early 17th century that clearly define traditional Wampanoag territory. A map presented by Mr. Bradley showed the burial site was clearly within Wampanoag territory. The third line of the evidence focused on the oral history of the Mashpee Wampanoag. The Mashpee consider themselves related to the earlier occupants of the Titcut Site.

Mr. Chuck Green, Vice President of the Mashpee Wampanoag, stated that the Mashpee have existed as a community since "...that area was designated as the last holding place for the Wampanoag people at the end of the King Philip Wars." Mr. Green also presented the Federally-recognized Gay Head Wampanoag Tribe's support of the Mashpee claim. Mother Bear, one of the Mashpee Wampanoag clan mothers, addressed the committee and requested their assistance in the repatriation and reburial of these Mashpee human remains.

Ms. Naranjo invited the committee members to discuss the museum's request. Mr. Tallbull supported the request for repatriation. Mr. Walker asked if the requirements of NAGPRA are met, mechanisms outside of NAGPRA can be used for repatriation. Mr. Green responded the Mashpee were approaching the issue in this fashion to be able to work within NAGPRA in the future. Mr. McManamon confirmed that non-Federally recognized Native American groups such as the Mashpee Wampanoag do not have standing to make claims under NAGPRA. Mr. McManamon stated these human remains currently were considered culturally unidentifiable, one function of the review committee was to make recommendations regarding the disposition of culturally unidentifiable human remains.

Mr. Monroe said all the processes had been followed in this situation, and recommended the remains be returned. Ms. Naranjo directed Mr. McManamon to draft a letter of finding for the Robert S. Peabody Museum and the Mashpee Wampanoag stating the committee's support of repatriation.

### **Disposition of Culturally Unidentifiable Human Remains to Non-Federally Recognized Native American Groups**

Mr. McManamon presented the committee with a draft memorandum regarding the disposition of culturally unidentifiable human remains which are culturally affiliated with non-Federally recognized Native American groups. Mr. McManamon stated the draft document was drafted to provide an interim solution to similar situations between institutions and groups such as the Mashpee Wampanoag. Mr. Walker said the procedure had already been used and the committee should "extend that opportunity to other groups in similar situations." Mr. Haas also suggested the memorandum allow non-Federally recognized Native American groups to bring requests to the committee. Mr. Monroe agreed. Ms.

Naranjo said she was looking at the draft memorandum as "an interim kind of way to help us while we clear up the definition of Indian Tribe."

Mr. Haas was concerned that human remains which are culturally affiliated with a present-day Native American group were being classified as culturally unidentifiable simply because the community does not have Federal recognition. Mr. Walker and Mr. Monroe agreed. Mr. McManamon explained that there are different reasons that human remains or cultural items fall into the culturally unidentifiable category. The committee is authorized to make specific recommendations regarding the disposition of culturally unidentifiable human remains. Mr. Monroe explained he felt there was a "problem with the logic and a problem with the ethics" with the way culturally unidentifiable was being defined. Ms. Craig questioned how human remains "could not be culturally affiliated just because the government doesn't recognize that Indian tribe", and suggested that the memorandum be reworked.

Mr. Haas asked if the committee would agree to a memo simply stating Native American groups claiming cultural affiliation may petition for repatriation on a case-by-case basis. Mr. Monroe asked how an Indian tribe is determined eligible for special programs and services. Mr. McKeown explained that there are some groups having "some sort of relationship with the United States government" which are eligible for funds under the American Indian Self-Determination Act. Mr. McKeown said the Solicitor's Office has advocated a government-to-government status for determining an Indian tribe's standing rather than a looser race-related standard, but that the committee's preference for a broader interpretation has been communicated to the Solicitor's office. Mr. McKeown stated the Solicitor's office had told him that "the determination of what "Indian Tribe" means is out of the committee's control and out of our control (the National Park Service)." He stated that if the final determination comes back that there is no latitude for granting standing to non-Federally recognized Native American groups. The draft memorandum before the committee would provide mechanisms within the law to accomplish the goals of repatriation.

Mr. Monroe suggested the committee formulate a procedure by which, on a case-by-case basis, there would be an opportunity to bring repatriation requests before the committee. Mr. Vicenti felt that a case-by-case procedure would become too cumbersome, and suggested a two-tiered approach-- mandating notification and consultation with Federally recognized groups first, and if no claims to the materials are received, the institution would be free to give the human remains and cultural items to whatever group it thought was entitled to them. Mr. McKeown responded that this was essentially the procedure proposed in the draft memorandum. Mr. Monroe strongly disagreed with the inclusion of human remains affiliated with non-Federally recognized Native American groups in the culturally unidentifiable category. Mr. Haas supported using the current draft memorandum until "we hear from the Solicitors if we can use a larger list."

Mr. Vicenti and Mr. McKeown agreed the Mashpee decision would provide notice to museums that similar situations could be brought before the committee. The precedent could serve as policy without further action by the committee. Mr. McKeown asked the committee if they wanted the policy memorandum published in the Federal Register and the Federal Archeology Report to notify effected institutions and groups. Mr. Haas suggested also publishing in Aviso, the American Association of Museums newsletter and the Society for American Archeology newsletter as well. Mr. Monroe agreed on those steps for the Mashpee decision, but wanted to get better answers before publishing findings on the issue of the inclusion of non-Federally recognized Native American groups on the NAGPRA

contact list. Mr. Haas said the committee should also make an explicit, vigorous recommendation to the Secretary of the Interior that the committee does "not accept the BIA list as the list of groups that have standing under NAGPRA." Ms. Naranjo directed the DCA to "publicize our recommendations related to the [Mashpee] Wampanoag Tribe...to give notice to the museum community and to the Indian tribes that we are not being exclusive with regard to tribal participation in repatriation."

### **Disposition of Culturally Unidentifiable Human Remains**

Mr. Douglas Owsley, forensic anthropologist at the National Museum of Natural History, Smithsonian Institution, presented his views to the committee on the disposition of culturally unidentifiable human remains. Mr. Owsley stated he felt that all human remains need to be treated with great care and respect. "My studies of the remains from long ago are conducted with a sincere belief that these bones can tell us much about what life was like. I think this information is relevant to us today." Mr. Owsley listed the kinds of information he feels can be gained from human remains and what that information tells him about life in the past. Mr. Owsley specified two categories of culturally unaffiliated human remains. The first category are those human remains lacking good "cultural context". Such human remains are often collected by nonprofessionals and donated to a museum. "This lack of cultural context reduces the value of these human remains to scientific research." Mr. Owsley said those remains should be reburied. The second category are "human remains that have good archeological provenance but are not clearly culturally affiliated with a present-day Indian tribe." Examples included Woodland and Archaic peoples of a thousand years ago. "Their relationship to the modern day is very difficult to unravel." Mr. Owsley felt that pre-contact people were very culturally different from Indian tribes in the historic period. "These remains should be carefully preserved so that they are available for study in the future." Such long-term curation should be done with input and sanction from contemporary Indian people. "Museums need to work with Indian tribes to obtain input and to find ways that would help make curation more tolerable." Mr. Owsley suggested the continued curation of these human remains "will prove beneficial to Native Americans." Mr. Owsley also cited the continuing developments in investigative techniques as a reason to maintain collections.

Mr. Sebastian LeBeau, Cheyenne River Sioux NAGPRA representative, responded that while Mr. Owsley and his profession stress scientific values, Indian people value the spiritual relationship presented by human remains. Mr. LeBeau disagreed with Mr. Owsley's statements that he respects Indian human remains, and pointed out in the National Museum of Natural History's labs, he had seen "people visiting over them, people talking over them, people laughing over them. You don't do that with people. That's what our ancestors are to us: people. I didn't see respect." Mr. LeBeau reiterated that the ancient human remains in institutions are the relatives of Indian people, who will settle issues of cultural determinations. Mr. Dennis Funmaker stated the proposed justifications for maintaining collections were unbelievable, and supported Mr. LeBeau's remarks.

Ms. Brenda Baker, bioarcheologist at the New York State Museum, presented a statement prepared by a group of physical anthropologists from New York State; including Carol Raemsch, Richard Wilkinson, Tamara Varney, Lisa Anderson, Maria Liston, and Lorraine Saunders. Ms. Baker stated, "the primary issue concerning the disposition of culturally unidentifiable human remains, as with all excavated human remains, is not repatriation but the tension between reburial and continued access." Ms. Baker attached the same importance to culturally affiliated and culturally unidentifiable remains,

and the group's statement did not distinguish between the two. Ms. Baker cited examples of specific research, such as the study of back problems and the relationship of arthritis & osteoporosis with diet as having improved treatments for present-day sufferers: "Bio-anthropological research on human remains supports the provision of better social services and health practice in contemporary societies." Ms. Baker and her colleagues supported maintaining all human remains in research collections, and cited extensive research...carried out on the remains of Euro-American populations, of poorhouse residents, family tombs, and the bioarcheology of African American groups" to show that Native populations were not the sole basis of research collections. Ms. Baker and her colleagues also supported curating human remains for training future anthropologists in the area of human osteology. "Any artificial model fails to provide the range of variation found in actual skeletons. We would not trust a surgeon trained exclusively through computer-generated programs, and we should not trust a skeletal biologist whose training was similarly artificial." Ms. Baker stated "it is not appropriate to rebury those remains for which we cannot decipher group membership. It is in no one's best interest to return culturally unidentifiable remains to any single group simply to remove them from museum collections. Even isolated burials, fragmentary skeletons and those that are unprovenienced can provide information on a region and about little-known time periods. It is only through careful attention to each and every individual that we can build a more complete picture of the past." Ms. Baker concluded her presentation by stating, "The study of all remains fosters understanding of all cultures. It is of major benefit to the United States to promote appreciation of cultural diversity for our future rather than promoting divisions and intolerance. The understanding we can all gain from cooperative efforts fosters mutual respect. We propose that repatriation with continued access would benefit all. We respectfully recommend to the review committee that repositories for culturally unidentified and unclaimed remains be created that would allow control by Native American groups while permitting continued access by anthropologists."

Ms. Naranjo noted that Mr. Owsley's and Ms. Baker's presentations made sense, but she also could not forget Mr. Tallbull's stories of human remains singing and laughing as they were being taken home. Mr. Haas asked if osteologists and physical anthropologists felt they could continue to justify their analysis "in the face of overt direct opposition by the descendants of those individuals to that analysis." Ms. Baker said she did not know.

Mr. Thomas Killion, Acting Director of the Repatriation Office in the National Museum of Natural History, Smithsonian Institution, supported the development of a process to facilitate the repatriation of culturally unidentified human remains.

Mr. Dean Snow, Professor of Anthropology at the University of New York State, Albany, limited his remarks to the problems presented by human remains "so old as to defy identification with any present-day Tribe." Mr. Snow noted that the length of time this would encompass will be different for different regions of the country. Mr. Snow suggested the following regulatory language: "In cases where because of their age, human remains cannot be reasonably affiliated with a lineal descendent, Indian Tribe or Native Hawaiian organization, the remains should be curated in perpetuity because they are indispensable for current and potential scientific study, the outcome of which would be of major benefit to the United States. Such perpetual curation should be the responsibility of an approved repository, and carried out in a manner appropriate for human remains." Mr. Snow urged the committee to "adopt a policy that will ensure the curation of ancient culturally unidentifiable human remains."

Mr. Peter Jemison, NAGPRA Coordinator of the Seneca Nation, reminded the committee that the 1795 treaty between the Six Nations and the United States was supposed to ensure the protection and non-disturbance of the Six Nations' territory and people. Mr. Jemison explained his community's view was when people die, they have finished their work. Their rest should not be disturbed to tell the living anything more. NAGPRA was enacted specifically because the human rights of Indian communities regarding their dead have not been recognized. As the closest relatives of the culturally unidentifiable human remains, Indian people have the right and the responsibility to speak for those human remains.

### **A Dispute Regarding Human Remains from Mokapu, Hawaii**

Mr. McManamon presented the committee with a letter from the US Marine Corps concerning multiple claims for human remains from Kaneohe Naval Air Station on the island of Oahu, Hawaii.

Mr. McKeown explained some of the background of the case to the committee, including the status of the lawsuit between Hui Malama I Na Kupuna 'O Hawai'i Nei (plaintiff) and the Secretary of the Navy and the Beatrice Pahai Bishop Museum (defendants). Mr. McKeown said the lawsuit "asked for suppression of certain portions of the inventory that had been conducted by the Bishop at the request of the Navy...the plaintiffs charged that [those studies] constituted 'new scientific research'. They also asked for the expeditious repatriation of the human remains from the Mokapu Peninsula to the plaintiffs which was Hui Malama I Na Kupuna 'O Hawai'i Nei.

On June 15th, 1994, 15 claimants met with representatives of the Marine Corps. The Marine Corps advised the claimants that it would request the involvement of the review committee to resolve the suit they were unable to come forward with a unified claim after 30 days. On July 29th, 1994, Major Ka'ainoni, Jr. sent a letter to Mr. McManamon asking for the assistance of the review committee. After consultation with the Chair of the committee, Mr. McManamon sent a response indicating the committee would consider the dispute. At that time, letters were sent to all 15 disputants as required by the review committee's dispute resolution procedures. These letters asked each disputant particular questions regarding the nature of the dispute. Four responses were received, representing 14 of the 15 claimants. One disputant did not respond."

Mr. McKeown said the Marine Corps would like the committee assistance to resolve two issues: 1) the interpretation of lineal descendant; and 2) what should museums or Federal agencies do when there are claims from groups claiming to be Native Hawaiian organizations not specifically mentioned in the statute. Mr. Haas asked Mr. McKeown to clarify the standards for identifying a Native Hawaiian organization. Mr. McKeown responded that the Native Hawaiian organization needs to show it "serves and represents the interests of Native Hawaiians, has a primary and stated purpose of services to Native Americans, and has an expertise in Native Hawaiian affairs." Mr. Monroe asked why the Marine Corps wanted answers for these issues. Mr. McKeown said that although the Marine Corps would like to repatriate the Mokapu remains as soon as possible, there were fifteen claimants, some basing their claim on cultural affiliation and some as lineal descendants.

Mr. Haas asked if the committee was being asked to answer these questions "without information on at least four of these organizations." Mr. McKeown responded that the committee had all the available information provided by the claimants. Ms. Naranjo asked if all the claimants were asking for the

committee's involvement. Mr. McKeown responded that only two organizations, Temple of Lono and the Princess Kamehameha Society had specifically asked for the committee to become involved.

Ms. Naranjo wondered whether the committee should consider this issue as a dispute. She asked the committee to consider sending the issue back and telling all parties to try to work things out among themselves. Ms. Naranjo said the committee should not be involved while the claimants are still holding discussions among themselves. Mr. Monroe noted the statute states very clearly that when there are competing claims, the institution involved waits until "the competing parties resolve their differences." "I know there are other issues surrounding this case in terms of the relationship between the various Native Hawaiian organizations and the Marine Corps, the Marine Corp's consultation process and the imposing of a 30-day period which is totally outside any statutory provisions. I see no compelling reason that they have to force this issue at this time." Mr. Monroe recommended the committee not review or act on the request of the Marine Corps, and further remind the Marine Corps that "there is no provision in the statute by which one could dictate to the disputing parties that they resolve their differences in 30 days." The committee agreed with his recommendation. Ms. Naranjo directed Mr. McManamon to prepare a letter stating the committee's decision to the Marine Corps and claimants.

## **Public Comment**

Mr. Tallbull spoke about the similarities between the repatriation of Native American human remains the repatriation of American servicemen from Southeast Asia. He noted that one of the major concerns for Indian people was the spiritual environment, not merely the physical land or cultural resources, which he hoped to make a part of the cultural resource management and consultation processes for the land-managing federal agencies. Mr. Tallbull said he is very concerned about how to take care of the culturally unidentifiable human remains. Scientists do not understand the spiritual aspect of disturbing human remains. "When we talk about the culturally unidentifiable remains, I think about the history of my people. The earliest history of my people begins somewhere up along the Atlantic Seaboard. They then crossed over into Hudson Bay country, and then down into Minnesota country. They certainly must of left some things behind. Once the flesh eating animals became extinct, we went out on the prairie. We couldn't do that when these animals still existed. Once we were down south, there was a message that came to them that you go back north: there's going to be a great flood. All of the Tribes went back north. And somewhere there are remains of my people scattered up and down this continent."

Mr. Pete Jemison asked about the percentage of grants going to smaller tribes and institutions. Mr. McManamon explained the money had been awarded 50/50 to tribes and museums, and the size of the tribe or institution had not been a deciding factor. Mr. McKeown said that applications were evaluated on the basis of whether they were able to address large issues for small amounts of money. There needed to be evidence of cooperation and collaboration with either museums or Indian tribes. Mr. Jemison commented that his view was that the smaller communities were the least likely to receive these funds because of their smaller budgets. He also requested that institutions be monitored to ensure their cooperation and working relationship with Indian tribes were active and going forward. Mr. Jemison read a memorandum to the committee from the Haudenosaunee Standing Committee on Burial Rules and Regulations (Standing Committee). The memorandum asked that the Haudenosaunee

Standing Committee be added to the tribal contact list. Mr. Jemison explained that the Haudenosaunee, the traditional council of the Six Nations: the Cayuga Nation; the Onondaga Nation; the Tuscarora Nation; the Tonawanda Band of Seneca; the Seneca Nation; the Oneida Tribe of Wisconsin; and the Oneida Nation of New York was active and properly represented the interests of all the Six Nations, with the exception of the Oneida Nation of New York. Mr. Jemison expressed his dissatisfaction with the differing interpretations of the statute and "the cumbersome bureaucracy and procedures that have been created surrounding this process." Mr. Jemison suggested the committee consider aboriginal territory as a basis for tribes to claim culturally unidentifiable human remains. His community wants to ensure that when they bring home human remains, "we get all of the remains that belonged to that individual together to take them all back at the same time. We don't want to leave half of them someplace and take half of them home." Mr. Jemison asked for the cooperation of anthropologists and archeologists to ensure an individual is kept together.

Ms. Barbara Issacs, Curator of Anthropology at the Peabody Museum at Harvard, said the challenges presented by NAGPRA were not philosophical or territorial, but financial and personnel. She said the Peabody Museum began complying after the law passed in 1990, and it has spent about \$530,000 for compliance so far. Compliance has been made more difficult by the fact that the archeological collections, originally estimated as containing around 800,000, really has closer 8 million items. Ms. Issacs asked for a strong statement from the committee about the amount of funding needed for institutions to comply with the statute.

Mr. LeBeau asked that more consideration be given to tribes when funding grants. Mr. LeBeau said the tribes do not understand why large institutions with budget of over \$10 million per year needed more money to complete inventories. He offered his tribe's assistance to museums for completing their inventories. He also announced that the seven Western Lakota nations, the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, the Standing Rock Sioux Tribe, the Rosebud Sioux Tribe, the Crow Creek Sioux Tribe, the Lower Brule Sioux Tribe, and the Devil's Lake Sioux Tribe are signing a cooperative agreement to work as one entity. He suggested museums also form cooperative agreements to advance the inventory work. Mr. LeBeau emphasized museums and institutions must complete their inventories in consultation with culturally affiliated Indian tribes. He requested museum and institutional representatives get in contact with tribal NAGPRA representatives. Mr. LeBeau requested allowances be made for tribal communities which never sought federal recognition, for treaty groups, and for terminated tribes. Mr. LeBeau asked the final versions of the regulations be distributed before being published, and said he was concerned "that you as a committee would approve of regulations you haven't read." Mr. LeBeau read a statement from the Rosebud Sioux Tribe expressing grave concern on the current language of the final regulations, and called for the regulations to be published as proposed once more for another comment period. Mr. LeBeau thanked the committee for their work.

Mr. Gary McCann, representative of the Muheconneuk Inter-Tribal Committee on Deer Island, Quincy, MA, addressed the committee on the difficulties his organization was facing in trying to protect burial grounds on Deer Island in Boston Harbor. Mr. McCann said NAGPRA does not address the concerns of his organization in protecting in situ burials from future disturbance. Mr. McCann also asked that the committee consider avenues for non-Federally recognized Native American groups to repatriate the remains of their ancestors. Mr. McCann also told the committee that the Massachusetts State Archeologist has not been cooperative in dealing with Indian tribes.



Mr. Phillips also suggested Indian tribes cooperate with museums in the areas of long-range planning regarding storage and care of repatriated items. Museums can assist with training and technical assistance for conservation issues.

Mr. Funmaker, Co-Director of the Ho-Chunk Historic Preservation Office, asked the committee to allow Indian tribes to comment on any recommendations concerning non-Federally recognized tribes being able to request human remains and cultural objects for repatriation.

Mr. George Abrams expressed the hope that NPS and the committee could, through "a careful reading of the legislation", come to some kind of an agreement between interpretation and procedures regarding the inventories and culturally unidentifiable human remains. Mr. Abrams said he greatly appreciated Mr. Tallbull's points during the meeting. Mr. Abrams asked the committee to maintain the requirement that Indian tribes be Federally recognized to have standing under the statute.

Ms. Loretta Mitoxen, Vice Chairwoman of the Oneida Nation of Wisconsin, told of her involvement with a repatriation of the body of a young Camp Verde Apache man from Walter Reed U.S. Army Hospital. She was concerned that although the records for remains at Walter Reed are very good, they do not seem to be moving ahead with consulting or repatriating. Ms. Mitoxen explained the different communities of Oneida, although physically separate, still constitute one tribal nation. She informed the committee that the Oneida nation will accept culturally unidentifiable human remains from the northeastern United States for reburial on behalf of the Haudenosaunee.

Mr. Dan Weiner, outside counsel for the American Museum of Natural History (AMHS) in New York City, expressed his concern in dealing with non-Federally recognized Native American groups. He explained that the AMHS holds its collections in trust "for all peoples, not only of New York State, but of the entire country and the world. We are looking to the committee for guidance regarding collections which are affiliated with non-Federally recognized Native American groups." Mr. Weiner stated that museums have no authority to decide who is and is not an Indian tribe with standing under NAGPRA and a list is needed. He was also concerned that State Attorney Generals would be coming back to museums saying "gee, you hold these collections in trust for the entire people of your State, why did you go and give this away?" Mr. Weiner cautioned that absent clear guidance, museums may take repatriation requests to court in order to cover themselves from future liability. Mr. Weiner agreed with Mr. LeBeau's statement that affected parties need to see the changes to the regulations.

Ms. Leah Rosenmeier, Peabody Museum at Andover, asked the committee for clarifications of the notification procedures when notices are sent to the Federal Register. Ms. Rosenmeier asked about an institution's responsibilities if human remains had been repatriated before NAGPRA, and had been pre-contact Pueblo claimed by one present-day Pueblo; now should they contact all the Pueblos and inform them about this repatriation? Ms. Rosenmeier said these questions also apply to present-day confederacies of tribes, and requested further guidance from the committee and the DCA in this matter.

Mr. Bob Brown, Condoled Chief of the Oneidas of Wisconsin, explained how the traditional form of Oneida government works, and how it now exists along side of the tribal council established under the Indian Reorganization Act.

Mr. Allan Ryan, attorney for Harvard University and the Peabody Museum, suggested that there already was a procedure available for museums to repatriate to non-Federally recognized Native American groups--having the committee issue a finding. This method avoids the problem of the statutory definition of Indian tribe.

Mr. Jonathan Haas suggested that the committee's finding on the Mashpee repatriation be extended to the inclusion of the Mashpee community on the NAGPRA contact list. Mr. Haas acknowledged this would open up a big door. "I'm willing to open that door. I like the idea of State recognized groups."

Ms. Rachel Craig thanked Mr. Jemison for his presentation to the committee. She commented that fights between Native peoples and the mainstream society were now becoming "battles of the brains." "I was raised in the Inupiat Eskimo tradition, and my grandparents took special care to make sure that I knew the things that were important in our life. That was our relationships with people--how we got along with people and how we treat the people in this life. They shared that information with me. I feel an obligation to give back to them, to speak for them. Our grandmothers have told us the importance of the spirit world. The spirits of those people cannot rest and make their progress in the spirit world unless they know that those bones are put back in the earth where they belong. That is our teaching."

Mr. Phillip Minthorn, Jr., Assistant Curator of Anthropology at the Smithsonian Museum of Natural History, suggested the committee listen to the input of tribal traditional religious leaders concerning culturally unidentifiable human remains.

Mr. George Claxton, staff archeologist at the New York State Museum, commented that although spiritual information is very important, the scientific ways of knowing were also critical to understanding the world and the past. "We cannot shut ourselves off to knowledge simply because we fear the knowledge, simply because we are afraid of what we might find."

Ms. Tamara Varney, an osteologist with the New York State Museum, said she has found that there can be connections between her spiritual world and her professional world.

Ms. Maria Liston, physical anthropologist, said she has been professionally frustrated in trying to address both "the intellect and the spirit." For culturally unidentifiable remains, she said, "at this stage, we cannot make that identification. There are other scientific purposes and goals and benefits that can be met with these unidentifiable remains."

Mr. Irving Powless wanted everyone to know that he and his ancestors all ate corn, fish, beans, rabbits, deer, beaver, and butternuts: "I made this statement before at a meeting of New York anthropologists and archeologists. And I'll make it again today: I eat corn, beans and squash, supplemented by deer, rabbit, turkey and fish. In the tradition of my ancestors I also continue to gather and eat butternuts. I tell you this, and I ask you to make a note, and to pass this note on to those who follow you in your profession so they will not have to dig up my bones to confirm that I eat corn, fish, and must. We do not need or want our ancestors dug up to confirm this. They say that they have respect for our people, but we question their method and their ideas of respect. One thing is sure, and this may be an answer to your question, the bones that are dug up that are 1,000 years old are not the ancestors of those who

study them. They do not belong to you. You are trying to put a label on them so that you can keep them to study. We, the people of today, say again, return our ancestors to us." Mr. Powless cited an example of the Rochester Museum wanting to keep Seneca ancestors "in case a machine was invented in the future that would answer questions that have not been asked yet. This is totally offensive to me. I cannot accept the idea of my ancestors being examined and stored on shelves for future use." Mr. Powless said archeologists and anthropologists do not have the same meaning when they speak of respect for human remains compared with the Indian meanings of respect.

Ms. Denise Vigue, Cultural Preservation Officer for the Oneida Tribe of Wisconsin, reminded the committee and the audience that the statute mandates the return of human remains. "There is no leeway. There is no scientific study in that. They are to be returned. That is what we must remember." Ms. Vigue also requested the committee seek the assistance of tribal traditional religious leaders for determining the disposition of culturally unidentified human remains. Ms Vigue said the tribes have the means of "identifying our own, and it isn't some mystical spiritual thing that we think we know. Give us equal rights under this law and leave it up to us."

Mr. Nick Nicastro, a graduate student in the Cornell University Archeology Department, asked "to what degree is science itself on trial in this issue?" Mr. Haas responded that science was not "on trial": "what we should be doing is providing advice to the people who will be making the decisions about what is going to happen with these remains. The people who are culturally affiliated with these remains are going to have the say as to what happens to them."

Mr. Frank Wozniak, NAGPRA Coordinator for the Southwestern Region of the US Forest Service, said he was concerned that the regulations were still not finalized. Although human remains had been removed from Federal lands on the pretext of advancing scientific knowledge, there had been no scientific analysis of them. "We are, to a degree, concerned and maybe even shocked with regard to this situation. We are a bit concerned with this whole question of the rationale of the advancement of knowledge." Mr. Wozniak reminded institutions holding Federal collections that the Federal agency maintains control and has the responsibility in making determinations of cultural affiliation.

Ms. Lynn Sullivan, Chair of the Anthropological Survey at the New York State Museum, extended her thanks to the staff of the New York State Museum for their work in setting up the meeting, facilities, and social events.

The meeting was closed at 5:15 p.m. on Saturday, November 19, 1994.

Approved:

/s/ Tessie Naranjo  
Tessie Naranjo, Chair  
Native American Graves Protection  
and Repatriation Committee

August 18, 1996  
Date